

REFERENCE TITLE: charter schools; ninth grade instruction

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1173

Introduced by
Senator Huppenthal

AN ACT

AMENDING SECTION 15-183, ARIZONA REVISED STATUTES; RELATING TO CHARTER SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-183, Arizona Revised Statutes, is amended to
3 read:

4 15-183. Charter schools; application; requirements; immunity;
5 exemptions; renewal of application; reprisal

6 A. An applicant seeking to establish a charter school shall submit a
7 written application to a proposed sponsor as prescribed in subsection C of
8 this section. The application shall include a detailed business plan for the
9 charter school and may include a mission statement for the charter school, a
10 description of the charter school's organizational structure and the
11 governing body, a financial plan for the first three years of operation of
12 the charter school, a description of the charter school's hiring policy, the
13 name of the charter school's applicant or applicants and requested sponsor, a
14 description of the charter school's facility and the location of the school,
15 a description of the grades being served and an outline of criteria designed
16 to measure the effectiveness of the school. **AN EXISTING CHARTER SCHOOL THAT**
17 **OFFERS INSTRUCTION IN KINDERGARTEN PROGRAMS AND GRADES ONE THROUGH EIGHT IS**
18 **NOT REQUIRED TO OBTAIN AN AMENDMENT TO THE CHARTER SCHOOL'S CHARTER IN ORDER**
19 **TO PROVIDE INSTRUCTION TO PUPILS IN GRADE NINE.**

20 B. The sponsor of a charter school may contract with a public body,
21 private person or private organization for the purpose of establishing a
22 charter school pursuant to this article.

23 C. The sponsor of a charter school may be either a school district
24 governing board, the state board of education or the state board for charter
25 schools, subject to the following requirements:

26 1. For charter schools that submit an application for sponsorship to a
27 school district governing board:

28 (a) An applicant for a charter school may submit its application to a
29 school district governing board, which shall either accept or reject
30 sponsorship of the charter school within ninety days. An applicant may
31 submit a revised application for reconsideration by the governing board. If
32 the governing board rejects the application, the governing board shall notify
33 the applicant in writing of the reasons for the rejection. The applicant may
34 request, and the governing board may provide, technical assistance to improve
35 the application.

36 (b) In the first year that a school district is determined to be out
37 of compliance with the uniform system of financial records, within fifteen
38 days of the determination of noncompliance, the school district shall notify
39 by certified mail each charter school sponsored by the school district that
40 the school district is out of compliance with the uniform system of financial
41 records. The notification shall include a statement that if the school
42 district is determined to be out of compliance for a second consecutive year,
43 the charter school will be required to transfer sponsorship to another entity
44 pursuant to subdivision (c) of this paragraph.

1 (c) In the second consecutive year that a school district is
2 determined to be out of compliance with the uniform system of financial
3 records, within fifteen days of the determination of noncompliance, the
4 school district shall notify by certified mail each charter school sponsored
5 by the school district that the school district is out of compliance with the
6 uniform system of financial records. A charter school that receives a
7 notification of school district noncompliance pursuant to this subdivision
8 shall file a written sponsorship transfer application within forty-five days
9 with the state board of education, the state board for charter schools or the
10 school district governing board if the charter school is located within the
11 geographic boundaries of that school district. A charter school that
12 receives a notification of school district noncompliance may request an
13 extension of time to file a sponsorship transfer application and the state
14 board of education, the state board for charter schools or a school district
15 governing board may grant an extension of not more than an additional thirty
16 days if good cause exists for the extension. The state board of education
17 and the state board for charter schools shall approve a sponsorship transfer
18 application pursuant to this paragraph.

19 (d) Beginning July 1, 2000, a school district governing board shall
20 not grant a charter to a charter school that is located outside the
21 geographic boundaries of that school district.

22 (e) A school district that has been determined to be out of compliance
23 with the uniform system of financial records during either of the previous
24 two fiscal years shall not sponsor a new or transferring charter school.

25 2. The applicant may submit the application to the state board of
26 education or the state board for charter schools. The state board of
27 education or the state board for charter schools may approve the application
28 if the application meets the requirements of this article and may approve the
29 charter if the proposed sponsor determines, within its sole discretion, that
30 the applicant is sufficiently qualified to operate a charter school. The
31 state board of education or the state board for charter schools may approve
32 any charter schools transferring charters. The state board of education and
33 the state board for charter schools shall approve any charter schools
34 transferring charters from a school district that is determined to be out of
35 compliance with the uniform system of financial records pursuant to this
36 section, but may require the charter school to sign a new charter that is
37 equivalent to the charter awarded by the former sponsor. If the state board
38 of education or the state board for charter schools rejects the preliminary
39 application, the state board of education or the state board for charter
40 schools shall notify the applicant in writing of the reasons for the
41 rejection and of suggestions for improving the application. An applicant may
42 submit a revised application for reconsideration by the state board of
43 education or the state board for charter schools. The applicant may request,
44 and the state board of education or the state board for charter schools may
45 provide, technical assistance to improve the application.

1 3. Each applicant seeking to establish a charter school shall submit a
2 full set of fingerprints to the approving agency for the purpose of obtaining
3 a state and federal criminal records check pursuant to section 41-1750 and
4 Public Law 92-544. If an applicant will have direct contact with students,
5 the applicant shall possess a valid fingerprint clearance card that is issued
6 pursuant to title 41, chapter 12, article 3.1. The department of public
7 safety may exchange this fingerprint data with the federal bureau of
8 investigation. The criminal records check shall be completed before the
9 issuance of a charter.

10 4. All persons engaged in instructional work directly as a classroom,
11 laboratory or other teacher or indirectly as a supervisory teacher, speech
12 therapist or principal shall have a valid fingerprint clearance card that is
13 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a
14 volunteer or guest speaker who is accompanied in the classroom by a person
15 with a valid fingerprint clearance card. A charter school shall not employ a
16 teacher whose certificate has been revoked for a violation of section 15-507
17 or 15-550 or for any offense that placed a pupil in danger. All other
18 personnel shall be fingerprint checked pursuant to section 15-512. Before
19 employment, the charter school shall make documented, good faith efforts to
20 contact previous employers of a person to obtain information and
21 recommendations that may be relevant to a person's fitness for employment as
22 prescribed in section 15-512, subsection F. The charter school shall notify
23 the department of public safety if the charter school or sponsor receives
24 credible evidence that a person who possesses a valid fingerprint clearance
25 card is arrested for or is charged with an offense listed in section
26 41-1758.03, subsection B. Charter schools may hire personnel that have not
27 yet received a fingerprint clearance card if proof is provided of the
28 submission of an application to the department of public safety for a
29 fingerprint clearance card and if the charter school that is seeking to hire
30 the applicant does all of the following:

31 (a) Documents in the applicant's file the necessity for hiring and
32 placement of the applicant before receiving a fingerprint clearance card.

33 (b) Ensures that the department of public safety completes a statewide
34 criminal history information check on the applicant. A statewide criminal
35 history information check shall be completed by the department of public
36 safety every one hundred twenty days until the date that the fingerprint
37 check is completed.

38 (c) Obtains references from the applicant's current employer and the
39 two most recent previous employers except for applicants who have been
40 employed for at least five years by the applicant's most recent employer.

41 (d) Provides general supervision of the applicant until the date that
42 the fingerprint card is obtained.

43 (e) Completes a search of criminal records in all local jurisdictions
44 outside of this state in which the applicant has lived in the previous five
45 years.

1 (f) Verifies the fingerprint status of the applicant with the
2 department of public safety.

3 5. If a charter school operator is not already subject to a public
4 meeting or hearing by the municipality in which the charter school is
5 located, the operator of a charter school shall conduct a public meeting at
6 least thirty days before the charter school operator opens a site or sites
7 for the charter school. The charter school operator shall post notices of
8 the public meeting in at least three different locations that are within
9 three hundred feet of the proposed charter school site.

10 D. A board that is authorized to sponsor charter schools pursuant to
11 this article has no legal authority over or responsibility for a charter
12 school sponsored by a different board. This subsection does not apply to the
13 state board of education's duty to exercise general supervision over the
14 public school system pursuant to section 15-203, subsection A, paragraph 1.

15 E. The charter of a charter school shall ensure the following:

16 1. Compliance with federal, state and local rules, regulations and
17 statutes relating to health, safety, civil rights and insurance. The
18 department of education shall publish a list of relevant rules, regulations
19 and statutes to notify charter schools of their responsibilities under this
20 paragraph.

21 2. That it is nonsectarian in its programs, admission policies and
22 employment practices and all other operations.

23 3. That it provides a comprehensive program of instruction for at
24 least a kindergarten program or any grade between grades one and twelve,
25 except that a school may offer this curriculum with an emphasis on a specific
26 learning philosophy or style or certain subject areas such as mathematics,
27 science, fine arts, performance arts or foreign language.

28 4. That it designs a method to measure pupil progress, toward the
29 pupil outcomes adopted by the state board of education pursuant to section
30 15-741.01 including participation in the Arizona instrument to measure
31 standards test and the nationally standardized norm-referenced achievement
32 test as designated by the state board and the completion and distribution of
33 an annual report card as prescribed in chapter 7, article 3 of this title.

34 5. That, except as provided in this article and in its charter, it is
35 exempt from all statutes and rules relating to schools, governing boards and
36 school districts.

37 6. That, except as provided in this article, it is subject to the same
38 financial and electronic data submission requirements as a school district,
39 including the uniform system of financial records as prescribed in chapter 2,
40 article 4 of this title, procurement rules as prescribed in section 15-213
41 and audit requirements. The auditor general shall conduct a comprehensive
42 review and revision of the uniform system of financial records to ensure that
43 the provisions of the uniform system of financial records that relate to
44 charter schools are in accordance with commonly accepted accounting
45 principles used by private business. A school's charter may include

1 exceptions to the requirements of this paragraph that are necessary as
2 determined by the district governing board, the state board of education or
3 the state board for charter schools. The department of education or the
4 office of the auditor general may conduct financial, program or compliance
5 audits.

6 7. Compliance with all federal and state laws relating to the
7 education of children with disabilities in the same manner as a school
8 district.

9 8. That it provides for a governing body for the charter school that
10 is responsible for the policy decisions of the charter school.

11 9. That it provides a minimum of one hundred seventy-five
12 instructional days before June 30 of each fiscal year unless it is operating
13 on an alternative calendar approved by its sponsor. The superintendent of
14 public instruction shall adjust the apportionment schedule accordingly to
15 accommodate a charter school utilizing an alternative calendar.

16 F. The charter of a charter school shall include a description of the
17 charter school's personnel policies, personnel qualifications and method of
18 school governance and the specific role and duties of the sponsor of the
19 charter school. A charter school shall keep on file the resumes of all
20 current and former employees who provide instruction to pupils at the charter
21 school. Resumes shall include an individual's educational and teaching
22 background and experience in a particular academic content subject area. A
23 charter school shall inform parents and guardians of the availability of the
24 resume information and shall make the resume information available for
25 inspection on request of parents and guardians of pupils enrolled at the
26 charter school. Nothing in this subsection shall be construed to require any
27 charter school to release personally identifiable information in relation to
28 any teacher or employee including the teacher's or employee's address,
29 salary, social security number or telephone number.

30 G. The charter of a charter school may be amended at the request of
31 the governing body of the charter school and on the approval of the sponsor.

32 H. Charter schools may contract, sue and be sued.

33 I. An approved plan to establish a charter school is effective for
34 fifteen years from the first day of operation. At the conclusion of the
35 first fourteen years of operation, the charter school may apply for renewal.
36 In addition to any other requirements, the application for renewal shall
37 include a detailed business plan for the charter school. The sponsor may
38 deny the request for renewal if, in its judgment, the charter school has
39 failed to complete the obligations of the contract or has failed to comply
40 with this article. A sponsor shall give written notice of its intent not to
41 renew the charter school's request for renewal to the charter school at least
42 twelve months before the expiration of the approved plan to allow the charter
43 school an opportunity to apply to another sponsor to transfer the operation
44 of the charter school. If the operation of the charter school is transferred
45 to another sponsor, the fifteen year period of the current charter shall be

1 maintained. A sponsor shall review a charter at five year intervals and may
 2 revoke a charter at any time if the charter school breaches one or more
 3 provisions of its charter. At least ninety days before the effective date of
 4 the proposed revocation the sponsor shall give written notice to the operator
 5 of the charter school of its intent to revoke the charter. Notice of the
 6 sponsor's intent to revoke the charter shall be delivered personally to the
 7 operator of the charter school or sent by certified mail, return receipt
 8 requested, to the address of the charter school. The notice shall
 9 incorporate a statement of reasons for the proposed revocation of the
 10 charter. The sponsor shall allow the charter school at least ninety days to
 11 correct the problems associated with the reasons for the proposed revocation
 12 of the charter. The final determination of whether to revoke the charter
 13 shall be made at a public hearing called for such purpose.

14 J. After renewal of the charter at the end of the fifteen year period
 15 described in subsection I of this section, the charter may be renewed for
 16 successive periods of fifteen years if the charter school and its sponsor
 17 deem that the school is in compliance with its own charter and this article.

18 K. A charter school that is sponsored by the state board of education
 19 or the state board for charter schools may not be located on the property of
 20 a school district unless the district governing board grants this authority.

21 L. A governing board or a school district employee who has control
 22 over personnel actions shall not take unlawful reprisal against another
 23 employee of the school district because the employee is directly or
 24 indirectly involved in an application to establish a charter school. A
 25 governing board or a school district employee shall not take unlawful
 26 reprisal against an educational program of the school or the school district
 27 because an application to establish a charter school proposes the conversion
 28 of all or a portion of the educational program to a charter school. ~~As used~~
 29 ~~in~~ **FOR THE PURPOSES OF** this subsection, "unlawful reprisal" means an action
 30 that is taken by a governing board or a school district employee as a direct
 31 result of a lawful application to establish a charter school and that is
 32 adverse to another employee or an education program and:

33 1. With respect to a school district employee, results in one or more
 34 of the following:

- 35 (a) Disciplinary or corrective action.
- 36 (b) Detail, transfer or reassignment.
- 37 (c) Suspension, demotion or dismissal.
- 38 (d) An unfavorable performance evaluation.
- 39 (e) A reduction in pay, benefits or awards.
- 40 (f) Elimination of the employee's position without a reduction in
- 41 force by reason of lack of monies or work.
- 42 (g) Other significant changes in duties or responsibilities that are
- 43 inconsistent with the employee's salary or employment classification.

44 2. With respect to an educational program, results in one or more of
 45 the following:

1 (a) Suspension or termination of the program.

2 (b) Transfer or reassignment of the program to a less favorable
3 department.

4 (c) Relocation of the program to a less favorable site within the
5 school or school district.

6 (d) Significant reduction or termination of funding for the program.

7 M. Charter schools shall secure insurance for liability and property
8 loss. The governing body of a charter school that is sponsored by the state
9 board of education or the state board for charter schools may enter into an
10 intergovernmental agreement or otherwise contract to participate in an
11 insurance program offered by a risk retention pool established pursuant to
12 section 11-952.01 or 41-621.01 or the charter school may secure its own
13 insurance coverage. The pool may charge the requesting charter school
14 reasonable fees for any services it performs in connection with the insurance
15 program.

16 N. Charter schools do not have the authority to acquire property by
17 eminent domain.

18 O. A sponsor, including members, officers and employees of the
19 sponsor, is immune from personal liability for all acts done and actions
20 taken in good faith within the scope of its authority.

21 P. Charter school sponsors and this state are not liable for the debts
22 or financial obligations of a charter school or persons who operate charter
23 schools.

24 Q. The sponsor of a charter school shall establish procedures to
25 conduct administrative hearings on determination by the sponsor that grounds
26 exist to revoke a charter. Procedures for administrative hearings shall be
27 similar to procedures prescribed for adjudicative proceedings in title 41,
28 chapter 6, article 10. Except as provided in section 41-1092.08, subsection
29 H, final decisions of the state board of education and the state board for
30 charter schools from hearings conducted pursuant to this subsection are
31 subject to judicial review pursuant to title 12, chapter 7, article 6.

32 R. The sponsoring entity of a charter school shall have oversight and
33 administrative responsibility for the charter schools that it sponsors.

34 S. Charter schools may pledge, assign or encumber their assets to be
35 used as collateral for loans or extensions of credit.

36 T. All property accumulated by a charter school shall remain the
37 property of the charter school.

38 U. Charter schools may not locate a school on property that is less
39 than one-fourth mile from agricultural land regulated pursuant to section
40 3-365, except that the owner of the agricultural land may agree to comply
41 with the buffer zone requirements of section 3-365. If the owner agrees in
42 writing to comply with the buffer zone requirements and records the agreement
43 in the office of the county recorder as a restrictive covenant running with
44 the title to the land, the charter school may locate a school within the
45 affected buffer zone. The agreement may include any stipulations regarding

1 the charter school, including conditions for future expansion of the school
2 and changes in the operational status of the school that will result in a
3 breach of the agreement.

4 V. A transfer of a charter to another sponsor, a transfer of a charter
5 school site to another sponsor or a transfer of a charter school site to a
6 different charter shall be completed before the beginning of the fiscal year
7 that the transfer is scheduled to become effective. An entity that sponsors
8 charter schools may accept a transferring school after the beginning of the
9 fiscal year if the transfer is approved by the superintendent of public
10 instruction. The superintendent of public instruction shall have the
11 discretion to consider each transfer during the fiscal year on a case by case
12 basis. If a charter school is sponsored by a school district that is
13 determined to be out of compliance with this title, the uniform system of
14 financial records or any other state or federal law, the charter school may
15 transfer to another sponsoring entity at any time during the fiscal year.

16 W. The sponsoring entity may not charge any fees to a charter school
17 that it sponsors unless the sponsor has provided services to the charter
18 school and the fees represent the full value of those services provided by
19 the sponsor. On request, the value of the services provided by the sponsor
20 to the charter school shall be demonstrated to the department of education.